

# **EXHIBIT 7**

**O'Keefe, Kevin P.**

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**From:** Kirschner, Adam (CIV) <Adam.Kirschner@usdoj.gov>  
**Sent:** Tuesday, February 12, 2019 9:58 AM  
**To:** O'Keefe, Kevin P.; Dugan, Joseph (CIV); Feldon, Gary D. (CIV)  
**Cc:** 'Oren Nimni'; Ni, Xing-Yin; Milbauer, Leah R.  
**Subject:** RE: Centro Presente - Outline of Topics for Meet and Confer [IWOV-EXCHANGE.FID1127236]

**\*\*External Email\*\***

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Kevin and all:

We have discussed the matter further internally and there doesn't appear to be any appetite here to negotiate further on the WH discovery requests or on the cabinet-level/WH depositions. We wanted to let you know right away so that you do not expend unnecessary time trying to see if there was any possible agreement that encompasses these two major sticking points. Unfortunately, we are just too far apart on these matters.

With that said, it would be helpful if you enumerate exactly what you are moving on before you file your motion. Although we do not think it would be fruitful to have a further meet-and-confer on the two sticking points described above, it is possible that the parties haven't completed their meet-and-confer on other discovery items. We were a bit unsure during our call what you were going to include in your motion. Obviously, if you are limiting your motion to the WH discovery item, for example, then we can just track our meet-and-confer on other items while we brief the motion.

Please let us know if you would like to discuss.

Thanks,  
Adam

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**From:** O'Keefe, Kevin P. <kokeefe@choate.com>  
**Sent:** Thursday, February 07, 2019 1:09 PM  
**To:** Dugan, Joseph (CIV) <jdugan@CIV.USDOJ.GOV>; Kirschner, Adam (CIV) <akirschn@CIV.USDOJ.GOV>; Feldon, Gary D. (CIV) <gfeldon@CIV.USDOJ.GOV>  
**Cc:** 'Oren Nimni' <onimni@lawyersforcivilrights.org>; Ni, Xing-Yin <xni@choate.com>; Milbauer, Leah R. <lmilbauer@choate.com>  
**Subject:** Centro Presente - Outline of Topics for Meet and Confer [IWOV-EXCHANGE.FID1127236]

Dear Joe,

In advance of this afternoon's meet and confer, Plaintiffs have prepared the following list of topics for discussion. Thanks again for setting aside the time to speak with us.

Requests for Production and 30(b)(6) Deposition Request Pertaining to White House Custodians

Please advise whether Defendants' position has changed in any respect, particularly as it pertains to Plaintiffs' RFPs 5, 13, 22-24, 27, 30, and 31, and the Rule 30(b)(6) Notice.

Depositions

Proposed dates for Mr. Law, Ms. Kovarik, and Ms. Anderson or Mr. Prelogar

- Please note, we do not concur and reserve all rights with respect to Defendants' proposed limitations on the extent and scope of deposition testimony, including, but not limited to, the proposal that Plaintiffs depose either Mr. Prelogar or Ms. Anderson.

Advise whether each individual identified in Plaintiffs' December 21, 2018 letter is represented by the Department of Justice in connection with this matter.

- In particular, please advise whether those individuals who have retired from government service are represented by the Department, i.e., Mr. Kelly, Ms. Duke, and Mr. Bossert.

Briefly, in response to your objections regarding the propriety of deposing high-level officers, we respond as follows:

- The intent of the decisionmakers is precisely at issue in this litigation, and concerns regarding protection of deliberative process are either unfounded or may be overruled if reasonably necessary for the litigation.
- Based on documents in the Administrative Record, there were several telephonic conversations and in-person meetings that informed the decisions at issue in this litigation. Plaintiffs are entitled to know the substance of those communications, which are not reflected in the documentary record.
- Plaintiffs are willing to discuss a potential compromise with respect to deposing one of Mr. Kelly, Ms. Duke, or Secretary Nielsen in the first instance, and then examining whether and to what extent additional depositions may be necessary.

In response to your objections concerning White House officials, Defendants have taken the position that the President and his agents within the White House had no role with respect to the TPS terminations. If they had no role in the process, then their communications logically should not implicate executive privilege.

Plaintiffs dispute that Mr. Hamilton and Mr. Wolf do not have relevant testimony, or that the relevance of their testimony is outweighed by the burden of having them testify. The fact that they may have multiple responsibilities does not bear on whether or not they played a significant role in the subject matter of this action.

#### Interrogatory Responses

We note that DHS' answer to Interrogatory Number 2, which requested a list of all meetings concerning TPS decisionmaking, does not include, among other items, the November 3, 2017 Principals Small Group meeting. See, e.g., AR-CP\_EL\_SALVADOR-00000137. Please advise whether Defendants will update this answer to include this and other meetings.

#### Document Production

We understand that Defendants in the Saget action produced handwritten notes from Kathryn Anderson concerning meetings where TPS was discussed.

- Please advise whether Defendants have produced, or will produce, these notes in this action.

#### Review of Custodians' TPS-Specific Email and Document Folders

- We understand that email folders and electronic documents have been collected from the custodians identified to date. Per your letter, search terms have then been applied.
- Please advise whether Defendants will review TPS-specific email and document folders without applying search terms.

#### Miscellaneous Follow-Up Items

- Metadata
- Search terms
- Production of documents in color

Kevin P. O'Keefe

## CHOATE

Choate, Hall & Stewart LLP  
Two International Place  
Boston, MA 02110  
t 617-248-4025  
f 617-502-4025  
[kokeefe@choate.com](mailto:kokeefe@choate.com)  
[www.choate.com](http://www.choate.com)

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